admissibility depends solely upon its competence as prior knowledge of the present invention under 35 U. S. C. § 102(a). The paper was not and could not have been invoked as a "printed publication" under a separate part of that section.

The "Question Presented" in the Brief in Opposition (p. 2), dealing, as it does, with a publication, is not before the Court. The question as there stated may be answered in the negative.

The issue in this case is whether an idea not reduced to practice is "knowledge" of an "invention". This Court, in *Coffin* v. *Ogden*, clearly articulated a rule that had never been modified or questioned until the decision below: an invention cannot be "known" until it has been reduced to practice.

The *Downtown*, *Cohn* and *Seymour* decisions cited in the Brief in Opposition (p. 6) deal with printed publications, not prior knowledge, and are, therefore, clearly irrelevant. The holding below, furthermore, is in direct conflict with the holdings in the *Block* and *Stearns* decisions, the inapposite remarks of the Brief in Opposition notwithstanding.

The patent law, as articulated initially by this Court and applied by other courts until now, makes an important distinction: with a printed publication, available for the world to make use of, reduction to practice by the author is immaterial; but to prove prior knowledge of an invention, and thus to bar a patent to those who may later perfect the invention, nothing short of reduction to practice will do. The court below refused to continue this distinction. The Brief in Opposition fails to recognize it.

It is unlikely that other federal courts will uniformly defer to the decision below. Consequently, two conflicting rules will be applied, one in prosecution before the Patent

Office and the court below, the other, in deference to the Second and Ninth Circuit holdings, in patent infringement litigation before the federal district and circuit courts.

The Petition should be granted.

Respectfully submitted,

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END